

32692
Customer Number

Patent
Case No.: 56842US002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: MITTELSTADT, WILLIAM A.

Application No.: 09/888943 Confirmation No.: 9282

Filed: June 25, 2001 Group Art Unit: 3772

Title: RESPIRATOR VALVE

FILING OF AMENDED BRIEF

Mail Stop Appeal Briefs-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF TRANSMISSION [37 CFR § 1.8(a)]

I hereby certify that this correspondence is being transmitted to United States Patent and Trademark Office on the date shown below via the Office electronic filing system.

March 2, 2009

Date

/Susan M. Dacko/

Signed by: Susan M. Dacko

Dear Sir:

On February 5, 2009, the United States Patent and Trademark Office issued a communication indicating that "[t]he brief does not contain a statement of the status of all the claims (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appeal claims." Applicants submit, however, that this position is in error. Please note on page 2 of applicants' appeal brief, under the heading "Status of Claims", applicants indicate that "claims 27-47 and 49-71 are pending in the application". Applicants also state that these claims "are the subject of this appeal." In order for a claim to be the subject for an appeal, it certainly must also be rejected. Thus, applicants believe that they have satisfied the requirements of 37 CFR § 41.37(c)(1)(iii). Nonetheless, applicants submit the following restatement of the status of the claims to eliminate any issue therewith:

STATUS OF CLAIMS

Claims 27-47 and 49-71 are pending in this application. These claims have been rejected and accordingly are the subject of this appeal.

Please contact the undersigned if the Commissioner believes that the above-noted statement still constitutes a non-compliant appeal brief.

On December 19, 2008, an Appeal Brief was filed by applicants' outside counsel, Kevin W. Raasch, of the firm Muetting, Raasch & Gebhardt, P.A. Please disregard the Appeal Brief filed by Mr. Raasch and only consider the Appeal Brief filed by the undersigned on December 17, 2008.

Respectfully submitted,

March 2, 2009

Date

By: /Karl G. Hanson/

Karl G. Hanson, Reg. No.: 32,900

Telephone No.: 651-736-7776

Office of Intellectual Property Counsel
3M Innovative Properties Company
Facsimile No.: 651-736-3833